

REMARKS

Claims 1-7 are pending in this application. New claim 9 has been added herewith.

Reconsideration of the subject patent application and allowance of the claims are respectfully requested in view of the following remarks.

Claim Rejections – 35 U.S.C. §102

Claims 1-3 and 5-7 are rejected under 35 U.S.C. §102(b) as being anticipated by ES 276,900. Applicant traverses the rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987).

While Counsel does not read Spanish; it is to the best of Counsel's understanding that ES 276,900 describes a dispenser which removeably fits onto the cap of a bottle of household liquid. The dispenser comprises a cup-shaped body, the base of which compliments the base of a bottle cap. The receptacle into which the liquid is poured is a typical 'cup-shape', i.e. having sides and a base at approximately 90 degrees to each other.

Claim 1, of the present invention, states, “A measuring and dispensing device for attachment to the cap on a bottle of liquid medicine, the device comprising on one of its sides a socket formation by means of which it may be releasably attached to the cap,

and on another side **a concave formation for receiving liquid medicine**, wherein the socket formation is a close but non-gripping fit on the cap." (emphasis added).

The emphasized language of claim 1, as shown above, is supported in the specification at: page 4, line 12 (the concave formation is without discontinuities in its internal surface); page 4, line 16 (the concave formation preferably runs smoothly throughout its internal surface); page 5, lines 9-17 (there is a curved wall between the concave formation and the socket formation); and page 7, line 7 (the concave formation is smoothly concave). Further, a dictionary definition of concave is, "hollowed or rounded inward like the inside of a bowl." Merriam-Webster Online Dictionary, <http://www.m-w.com/dictionary/concave>.

As discussed in the specification, the advantage of having a concave formation is that the user may use the mouth parts to remove all of the medicine, as with a spoon (see page 1, lines 19-20). ES 276,900 discloses a dispensing cup that suffers from the shortcoming that viscous medicine would be retained on the inside surface of the receptacle.

Thus, because ES 276,900 teaches the typical 'cup-shape' receptacle, and not a concave receptacle, the reference does not teach each and every limitation of claim 1. Therefore, ES 276,900 is not an anticipatory reference of the present invention.

Claim Rejections – 35 U.S.C. §103

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over ES 276,900 in view of DE 8333126. Applicant traverses the rejection.

A *prima facie* case of obviousness cannot be established unless all of the claim elements are taught or suggested by the cited references. In re Royka, 490 F.2d 981, 984-85 (CCPA 1974); In re Glauq, 283 F.3d 1335, 1341-42 (Fed. Cir. 2002); In re Rijckaert, 9 F.3d 1531, 1533 (Fed. Cir. 1993). In the current case, not all elements of the current invention have been shown.

While Counsel does not read German; it is to the best of Counsel's understanding that DE 8,333,126 describes an integrated cap and dispensing cup. Further, the dispensing cup of the German reference has a base and walls at approximately 90 degrees to each other, i.e. the typical 'cup-shape' as described above. Thus, because neither reference, to the best of counsel's understanding, discloses a concave formation of a measuring and dispensing device, the current invention cannot be obvious in light of the listed references.

Appl. No. 10/531,992
Amendment dated July 31, 2006
Reply to Office Action of March 31, 2006

In view of the above remarks, Applicant submits that the present application is now in condition for allowance. Reconsideration and favorable action are requested. The Examiner is invited to telephone the undersigned to expedite allowance of this application.

Respectfully submitted,

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